IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 4495 of 2007(I)

PETITIONER:

K. PIYOOSE, OFFICE SUPERINTENDENT
GROUP CENTRE, CENTRAL RESERVE POLICE FORCE,
PALLIPPURAM, THIRUVANANANTHAPURAM.

BY ADV. SRI.G.SASIDHARAN CHEMPAZHANTHIYIL
SRI.S.VISHNU

RESPONDENTS:

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1. ADDITIONAL D.I.G.P.,
GROUP CENTRE, CENTRAL RESERVE POLICE
FORCE, PALLIPPURAM, THIRUVANANTHAPURAM.

2. DEPUTY INSPECTOR GENERAL OF POLICE,
GROUP CENTRE, CENTRAL RESERVE POLICE FORCE,
PALLIPPURAM, THIRUVANANTHAPURAM.

3. DIRECTOR GENERAL, CENTRAL RESERVE
POLICE FORCE, CGO COMPLEX,
LODHI ROAD, NEW DELHI-110 003.

4. UNION OF INDIA, REPRESENTED BY
ITS SECRETARY, MINISTRY OF HOME AFFAIRS,
NEW DELHI.

BY SHRI.JOHN VARGHESE, ASST.S.G.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.4495 OF 2007-I.

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Dated this the 19th day of February, 2007.

J U D G M E N T

The petitioner is working as Office Superintendent in the Central Reserve Police Force. He submitted Ext.P1 notice under Rule 48 of the C.C.S.(CCA) Rules, 1972 before the 2nd respondent to permit him to retire voluntarily with effect from 1-3-2007. In Ext.P1, he had stated that his total qualifying service would come to 35 years. The 2nd respondent passed Ext.P2 order in December, 2006 informing the petitioner that his request for voluntary retirement cannot be granted in view of the enquiry being held into a complaint of misconduct against him and that Ext.P1 notice cannot be accepted. Challenging Ext.P2 order, this writ petition has been filed.

2. Counsel for the petitioner submits that Ext.P2 has been passed under Rule 48A of the C.C.S. Pension Rules, which permits the employees to retire from service voluntarily on completion of 20 years of service. The petitioner has completed more than 30 years of qualifying service and therefore, he is entitled to make a request to retire him from service with appropriate terminal benefits.

Counsel submits that the petitioner ought to have been allowed to retire under Rule 48 of the CCS Pension Rules. If the 2nd respondent had taken notice of the total qualifying service rendered by the petitioner, Ext.P2 order would not have been passed, submitted the counsel.

3. Learned Assistant Solicitor General appearing for the respondents submits that the petitioner made a request to permit him to voluntarily retire from service and that was why the 2nd respondent considered the same under Rule 48A of C.C.S. Pension Rules.

4. I think, interest of justice requires that the petitioner shall be permitted to pursue his case based on the fact that he had completed 30 years of qualifying service, despite the wrong expression used in Ext.P1 notice. Since the petitioner has completed 30 years of qualifying service (ie. what the petitioner states in his writ petition) his case can very well be considered under Rule 48 of the C.C.S. Pension Rules. Counsel for the petitioner submits that a representation will be filed before the 2nd respondent to consider his case under Rule 48 of the said Rules based on the total service he has rendered as a member of the Central Reserve Police Force.

5. Having heard counsel on either side, I am inclined

to dispose of the writ petition directing the 2nd respondent to consider the representation, if any, that may be filed by the petitioner as stated above, along with Ext.P1 notice and to pass orders under Rule 48 of the C.C.S. Pension Rules within three months from the date of receipt of a copy of the above representation. Ordered accordingly. In order to enable the 2nd respondent to consider the case of the petitioner under Rule 48 of C.C.S. Pension Rules, Ext.P2 order passed under Rule 48A of the aforesaid Rules is set aside.

The writ petition is disposed of as above.

K.K.DENESAN, JUDGE.

kvs/-